

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Amjad Soomro
Application No. : 10/578,646
Filed : May 9, 2006
For : METHOD AND SYSTEM FOR PROVIDING SERVICE TO
WIRELESS DEVICES OPERATING IN A POWER SAVING
MODE

Examiner : Matthew S. Lindsey
Art Unit : 2451
Docket No. : 853463.467USPC
Date : April 1, 2010

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF

Commissioner for Patents:

This brief is in furtherance of the Notice of Appeal, filed in this case on September 15, 2009, and is in response to the Examiner's Answer mailed February 1, 2010. Appellant hereby requests any fees necessary for acceptance of this Reply Brief be charged to Deposit Account No. 19-1090.

I. ARGUMENT IN REPLY

A. The Examiner Has Not Established a *Prima Facie* Case of Obviousness

Although the Examiner rejected each of claims 1-23 as obvious under 35 U.S.C. § 103, the Examiner has not made out a *prima facie* of obviousness. Specifically, the Examiner has not shown that the combined references teach all the limitations of the claims, or provided a reasoned basis for why one of skill in the art would have found the required further modifications to the references to be obvious. Instead, the Examiner ignores limitations of the claims.

The claimed embodiments are directed to receiving requests from client devices for either scheduled or unscheduled service, with the requests having a field of a traffic specification format that indicates whether scheduled or unscheduled service is requested. For example, in the claimed embodiments an unscheduled message from a client could be a request for scheduled service. The recited field indicates the type of service requested (in this example, scheduled service), rather than the type of message (in this example, an unscheduled message).

The Examiner pretends the claims recite a generic message (instead of specific type of message (*e.g.* “requests for service,” as recited in claim 1)). This is why the Examiner refers to the beacon as a “message,” instead of identifying it as the specific type of message that it is, a beacon. The Examiner also either ignores or unreasonably interprets “scheduled requests” and “unscheduled requests,” which in the context of the claims identify the type of service requested. *See also* paragraph 20 of the application as filed. In contrast, the field in the beacon of Meier to which Examiner points identifies whether the beacon is itself a scheduled or an unscheduled beacon. The beacon is not a request for service and does not have a field indicating a type of service requested. Thus, there are at least two elements missing from the combined references. The Examiner does not even acknowledge that recited elements are missing from the combination of the references, let alone provide a reasoned basis for why one of skill in the art would have found the required further modifications to be obvious. Accordingly, the Examiner has not established a *prima facie* case of obviousness.

B. Paragraph 25 of Benveniste Does Not Supply the Missing Teachings

In the Examiner's Answer, the Examiner cited a short portion of Benveniste (see Examiner's Answer page 17, citing to paragraph 25 of Benveniste), and argues that Benveniste handles aperiodic and periodic traffic. Appellant believes this is a new citation by the Examiner, and therefore will address its significance. Appellant has never disputed that Benveniste handles aperiodic and periodic traffic. Paragraph 25 of Benveniste neither discloses nor suggests the elements of the independent claims as set forth in Appellant's Brief that are missing from Benveniste. Similarly, paragraph 25 of Benveniste neither discloses nor suggests the further modifications that would be required to the cited references to achieve the claimed embodiments. Thus, the Examiner's citation to paragraph 25 is of no significance.

C. The Required Modifications to Meier Are Inconsistent With the Examiner's Hindsight Reasoning

In Appellant's Brief, Appellant argued that the Examiner was applying hindsight reasoning and quoted from the Final Office Action, in which the Examiner argued "motivation to combine these references comes from an access point being able to differentiate between scheduled and unscheduled requests to provide increased QoS for scheduled requests since they are arranged in advance." Appellant argued this reasoning is both hindsight reasoning and inconsistent with the principles of operation of Meier.

Specifically, Appellant argued that the purpose of the requests for an unscheduled beacon advertisement of the secondary reference Meier was to speed up the discovery process, and that modifying Meier so that it a request for an unscheduled beacon advertisement would not be honored before the next scheduled beacon would not speed up the discovery process. In response, the Examiner theorizes that a beacon schedule could be a 24 hour schedule, and thus reasons that a request would be unlikely to be refused under such a hypothetical schedule. To establish a *prima facie* case of obviousness, the Examiner must point to what the references teach, not to how the references could be configured. In any event, the Examiner's new hypothetical configuration of Meier does not contradict Appellant's point. Indeed, the

Examiner's argument supports Appellant's position. If the discovery schedule were a hypothetical 24 hour schedule, it would seem to be even more important that requests for an unscheduled beacon be honored before the next scheduled beacon, and modifying Meier so that such requests could be refused is inconsistent with the operating principles of Meier, which is to speed up the discovery process.

II. CONCLUSION

For at least the reasons set forth in Appellant's opening brief and those set forth above, the Examiner has failed to meet his burden of establishing a *prima facie* case for rejecting the claims. Accordingly, Appellant respectfully submits that all of the pending claims are allowable and request that the Examiner's rejections thereof be reversed.

The Examiner's Answer provided other arguments/assertions, which are believed to be insufficient to meet the Examiner's burden to establish a *prima facie* case of obviousness or to overcome Appellant's arguments for patentability set forth in Appellant's Brief. For the sake of brevity, these arguments set forth in Appellant's Brief will not be repeated herein.

Respectfully submitted,
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